

Message Text

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ACTION L-03

INFO OCT-01 ARA-06 ISO-00 SCA-01 JUSE-00 OPR-02 (ISO) W

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FM AMEMBASSY SANTIAGO

TO SECSTATE WASHDC 4685

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E. O. 11652: N/A

TAGS: CI, PFOR

SUBJECT: EXTRADITION TREATY NEGOTIATIONS - CHILE.

REF: SANTIAGO 6050

1. ARTEAGA AND STEVEN MET SEPTEMBER 5 FOR SHORT SESSION. ARTEAGA VERY BUSY AND SO FAJ UNABLE TO CONSULT WITH BUZMAN ON POINTS RAISED SEPTEMBER 3. APPEARS PROBABLE THAT WHATEVER TEXT COMES OUT OF THIS ROUND WILL NOT BE GIVEN FINAL APPROVAL BY GOC UNTIL BOTH BAZAN AND GUZMAN HAVE LOOK AT IT. THUS AS EXPLAINED REFTEL IT MAY BE MID-OCTOBER BEFORE DEPT WILL HAVE FINAL GOC-APPROVED TEXT UPON WHICH TO BASE REQUEST FOR SIGNING AUTHORITY.

2. POINTS COVERED SEPTEMBER 5 FOLLOW:

ARTICLE VII - ARTEAGA ACCEPTED DELETION FROM ENGLISH TEXT OF "ANY OF" AND CHANGE TO "SHALL NOT."

AGREED ELIMINATE ACCENT IN "QUIEN."

ARTICLE VII, 5, C - PROBLEM OF "PASSENGER AIRCRAFT" - ARTEAGA APPRECIATES OUR PREFERENCE NOT TO CHANGE TEXTS ON THIS POINT, BUT QUESTIONS WISDOM OF PERPETUATING IN THIS TREATY FOR THAT REASON ALONE WHAT BOTH HE AND BAZAN CONSIDER SUBSTANTIVE DIFFERENCE IN TWO TEXTS. FURTHER QUESTION AROSE OVER APPLICABILITY OF SECTION TO AN AIRCRAFT SUCH AS B707 CONFIGURED SOLELY FOR CARGO. IS SUCH AN AIRCRAFT COVERED? ARTEAGA FINALLY SUGGESTED THAT GOC COULD PROBABLY ACCEPT DEPT PROPOSAL TO LEAVE DIFFERENCE IN TEXTS AS ORIGINALLY AGREED, IF USG WOULD PROVIDE FORMAL DIPLOMATIC NOT TO GOC EXPLAINING BACKGROUND OF PROBLEM AND INDICATING USG UNDERSTANDING THAT ENGLISH TEXT IS TO BE INTERPRETED AS INCLUDING LIMITED OFFICIAL USE

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A COMMERCIAL PASSENGER AIRCRAFT, WHETHER OR NOT IT HAD PASSENGERS

AS DISTINCT FROM CREW ABOARD AT TIME OF COMMISSION OF OFFENSE.
HE WOULD ALSO LIKE TO SEE POINT ON CARGO AIRCRAFT COVERED IN SUGGESTED

NOTE. THIS RECORD OF "NEGOTIATING HISTORY" WOULD BE FILED IN
FON MIN AGAINST FUTURE NEED. HIS PREFERENCE IS TO ALIGN THE
TEXTS BY CORRECTING ENGLISH, BUT HE BELIEVES ALTERNATIVE OF NOTE
WOULD PROBABLY BE ACCEPTABLE SOLUTION. PLEASE ADVISE.

ARTICLE VIII - AGREED ACCEPT SUBSTITUTION OF "FUERA PUNIBLE"
AS PROPOSED. AGREED USE "COUNTRY" IN LINE 3 OF ENGLISH TEXT.
NO CHANGE IN SPANISH TEXT. SOME CONFUSION AROSE OVER LINES 4 AND 5
OF SPANISH TEXT, AS NEITHER GOC COPIES NOR USG COPIES SENT BY
GAITHER TO STEVEN AUGUST 22 HAD WORD "RECLAMADA" AFTER "EXTRADICION."
HOWEVER REVIEW OF EARLIER DRAFTS AND VARIOUS MARKINGS ON LATEST
ONES LED TO CONCLUSION HUMAN ERROR HAD CREPT IN, AND CORRECTION
MADE. ARTEAGA ALSO WISHES STRAIGHTEN OUT FIRST PART OF LINE 4
SO IT WILL READ "LEYES DE LA PARTE REQUERIDA (COMMA)." US OF
"PARTE" WILL BE CONSISTENT WITH REST OF PARAGRAPH. ACCEPTS
DEPARTMENT'S PROPOSED SPANISH TEXT FOR REST OF PARAGRAPH,
BUT SEES NO NEED FOR "LAS" BEFORE "GARANTIAS" AND REQUIRES
COMMA AFTER "SUFICIENTES."

ARTICLE IX - DIFFERENCE MUST BE REFERRED TO GUZMAN FOR OPINION.

ARTICLE X - AGREED ON NO CHANGES.

ARTICLE XI - AGREED TO CHANGE ENGLISH "OR" TO "AND"
AND UNDERSTOOD THAT USG REQUESTS WILL CONTAIN SUGGESTED STATEMENT.
THERE IS PRESCRIPTION FOR THE PENALTY IN CHILEAN LAW. ARTEAGA
DID NOT AGREE THAT "EMANDOS" SHOULD BE SINGULAR. HE EXPLAINED

THAT WORD REFERS BACK TO PRECEDING ITEMS, "UNA ORDEN DE DETENCION"
AND "UN AUTO DE PROCESAMIENTO." FIRST IS FEMININE, SECOND MASCULINE,
AND IN REFERRING TO TWO OBJECTS OF DIFFERENT SEX, MASCULINE
PLURAL "EMANDOS" IS CORRECT. IN SPANISH PARAGRAPH 4, ARTEAGA
MAINTAINS THAT "DEBAN" IS PREFERABLE, NOT "DEBEN." HE SAID
"DEBAN" IS PRESENT SUBJUNCTIVE TENSE AND MATCHES "SERAN"
AT END OF SAME LINE. IF WE ARE GOING TO ARGUE THESE LATTER TWO
POINTS, PLEASE PROVIDE FULL EXPLANATION IN SPANISH. AGREED THAT
"AUTENTICADA" IS PREFERABLE. AGREED TO CHANGES IN "PUBLIC"
AND "IN" IN SUBPARAGRAPH B OF ENGLISH TEXT AND "EN" FOR "DE"
IN SPANISH.

ARTICLE XII - REVERSION TO ORITINAL "ACCUSED OR CONVICTED"
AGREED. HOWEVER, ARTEAGA DOES NOT UNDERSTAND RATIONALE FOR
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PROPOSED CHANGE FROM "SE ANUNCIA EL PROPOSITO, ETC." TO "SE
INDICA LA FINALIDAD DE LA SOLICITUDE, ETC." HE FINDS FIRST
PHRASE IS PERFECTLY CLEAR AND SECOND, PROPOSED BY DEPARTMENT,
TOTALLY OBSCURE. HE ADDS THAT FIRST PHRASE COMES FROM 1933 TREATY
OF MONTEVIDEO, WHICH HAS BEEN BASIS OF GOC EXTRADITION ARRANGEMENTS
WITH SEVERAL OTHER LA NATIONS, AND WOULD PREFER TO STICK WITH IT
UNLESS WE HAVE BETTER EXPLANATION. HE BELIEVES TEXT AS IT STANDS
CONVEYS OBVIOUS INTENT, WHICH AS DEPARTMENT STATES IS ONLY TO

SUPPLY PURPOSE FOR REQUEST. AMENDMENT OF LAST PART OF SENTENCE
AS PROPOSED IS ACCEPTABLE.

3. NEGOTIATION WILL BE CONTINUED ON REMAINING POINTS AT CONVENIENCE
OF GOC. ARTEAGA WILL TRY TO SCHEDULE TIME SEPT 9 OR 10,
BUT NEXT TWO WEEKS ARE PERIOD OF MAJOR CHILEAN NATIONAL HOLIDAYS
AND CELEBRATIONS, AND WE EXPECT FURTHER NEGOTIATIONS WILL HAVE
TO WAIT UNTIL WEEK SEPTEMBER 22.
POPPER

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